

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOYCE L. GALIOTO,

Plaintiff,

v.

ORDER
06-CV-229

DANIEL KAMIN, Individually and
d/b/a KAMIN REALTY CO.,

Defendant.

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1), on May 22, 2006. On August 17, 2007, defendant filed a motion for summary judgment. On February 17, 2010, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that plaintiff's motion for partial summary judgment and dismissal of the affirmative defenses of assumption of risk and comparative negligence be denied.

Plaintiff filed objections to the Report and Recommendation on March 2, 2010. Oral argument on the objections was held on March 29, 2010.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument

from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, plaintiff's motion for partial summary judgment and dismissal of the affirmative defenses of assumption of risk and comparative negligence is denied.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: March 30, 2010